IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1268 of 2007.

Date of decision: 27.8.2007

Devi Singh ... Petitioner

Versus

State of H.P. & Ors. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr. K.R. Thakur, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General, for respondents No. 1 & 2.

Per Deepak Gupta, J. (Oral):

By means of this petition, the petitioner has challenged the order of the learned H.P. State Administrative Tribunal dated 14.5.2007 setting aside his appointment as ALS Instructor.

The only ground which has weighed with the learned Tribunal while passing the impugned order is that the father of the present petitioner is employed as peon. The interview letter for the post of ALS Instructor was issued on 9.10.2001. Before the Tribunal, respondent No. 4 (original applicant) had placed on record a copy of the Parivar Register to show that the petitioner was separated from his father only on 23.10.2001 i.e. after the interview letter had been sent. The Tribunal on this basis has come to the conclusion that the petitioner

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

was not entitled to 5 marks for having no member of the family in organised employment and as such, his appointment was set aside.

Mr. K.R. Thakur, has vehemently contended that the petitioner was residing separately from his father since 1992 and he has relied upon a copy of Parivar Register Annexure P-6.

We are exercising writ jurisdiction in respect of an order passed by an Administrative Tribunal. We have to decide the same on the basis of the material placed before the Tribunal. In rejoinder to the original application, the original applicant had clearly stated that the separation of the family had been incorporated only on 23.10.2001 after the interview letter dated 9.10.2001 was issued. The petitioner did not place any material before the learned Tribunal to counter this document. At this stage, the petitioner in the writ petition cannot be permitted to place fresh material on record. The Tribunal on the basis of the material before it has come to a finding of fact that the petitioner had not separated from his father prior to 23.10.2001. We are not inclined to interfere with the findings of fact recorded by the Tribunal. The petition is dismissed. No order as to costs.

CMP No. 2100 of 2007:

In view of the orders passed in the main petition, this application has become infructuous.

(Deepak Gupta),
Judge

(V.K. Ahuja),
Judge

August 27, 2007
(BSS)